

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ELLIOTT RAMONE MADDOCK
a/k/a Joseph Stephens,

Petitioner,

v.

Case No. 04-C-0768

DAN BENIK,
Warden, Stanley Correctional Institution,

Respondent.

ORDER SETTING BRIEFING SCHEDULE

Proceedings in this habeas corpus action have been stayed since October 25, 2004, while the petitioner, Elliott Ramone Maddock, a/k/a Joseph Stevens (“Maddock”), pursued state remedies for one of the claims presented in his habeas petition. On April 20, 2007, Maddock filed a letter with this court together with copies of the state court of appeals’ decision denying his application for a writ of habeas corpus and the Wisconsin Supreme Court’s denial of his petition for review. Given the foregoing, it would appear that Maddock has now exhausted his state court remedies. Thus, the stay will be lifted on his federal habeas corpus petition and a briefing schedule on the claims set forth in his petition will be issued.

The petitioner has filed a motion to take judicial notice of exhaustion and a motion to supplement brief with amended issues. However, the motion to supplement brief with amended issues appears to be a motion to amend the petition. As the court will issue a briefing schedule because it appears Maddock has now exhausted his state court remedies, the motion to take judicial

notice of exhaustion will be denied as moot. Moreover, as the petitioner has yet to file a brief in support of his petition, and the claim of ineffective assistance of appellate counsel was included in his original petition, the motion to supplement brief with amended issues/amend petition will also be denied as moot. Maddock's brief in support should address all of the claims in his original habeas petition, including his claim of ineffective assistance of appellate counsel.

NOW THEREFORE IT IS ORDERED the stay of Maddock's petition imposed by this court on October 25, 2004, be and hereby is **LIFTED**;

IT IS FURTHER ORDERED that the motion to take judicial notice of exhaustion is **DENIED AS MOOT**;

IT IS FURTHER ORDERED that the motion to supplement brief with amended issues is **DENIED AS MOOT**;

IT IS FURTHER ORDERED that the following briefing schedule shall govern the processing of the petition:

On or before June 1, 2007, the petitioner is to file his brief in support of the petition;

On or before July 16, 2007, the respondent is to file his brief in opposition to the petition;

On or before August 16, 2007, the petitioner is to file his reply brief, if any.

SO ORDERED this 20th day of April 2007, at Milwaukee, Wisconsin.

/s/ William E. Callahan, Jr.
WILLIAM E. CALLAHAN, JR.
United States Magistrate Judge